

House Daily Reader

Tuesday, February 18, 2003

| Bills Included | | | | |
|----------------|---------|---------|---------|---------|
| HB 1065 | HB 1067 | HB 1081 | HB 1111 | HB 1118 |
| HB 1120 | HB 1157 | HB 1187 | HB 1190 | HB 1195 |
| HB 1202 | HB 1211 | HB 1215 | HB 1232 | HB 1260 |
| HB 1261 | HB 1282 | SB 23 | SB 29 | SB 80 |
| SB 162 | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

339I0181

SENATE ENGROSSED NO. **HB 1065** - 02/13/2003

Introduced by: Representatives Lintz and Pederson (Gordon) and Senator Vitter

1 FOR AN ACT ENTITLED, An Act to revise the formula for determining the weighted average
2 tax levy for receiving school districts and to remove an incorrect reference to the maximum
3 general fund levy.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 13-11-10 be amended to read as follows:

6 13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of
7 the receiving districts shall be calculated for agricultural property, nonagricultural acreage
8 property, owner-occupied single-family dwelling property, and for nonagricultural property for
9 each sending school district as follows:

- 10 (1) The levy per thousand dollars of taxable valuation for agricultural property for each
11 receiving school district shall be multiplied by the number of children from the sending
12 school district to whom the receiving school district is providing educational services;
- 13 (2) Add together the products from subdivision (1) for each receiving school district;
- 14 (3) Divide the sum from subdivision (2) by the total number of students that the
15 contracting school district is sending to the receiving school districts pursuant to
16 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars



1 of taxable valuation for agricultural property;

2 (4) The weighted average tax levy per thousand dollars of taxable valuation for
3 nonagricultural acreage, owner-occupied single-family dwellings, and nonagricultural
4 land property shall be obtained by ~~adjusting the quotient in subdivision (3) in~~
5 ~~accordance with the provisions of § 10-12-31~~ repeating the procedure outlined in
6 subdivisions (1) to (3), inclusive, for each class of property; and

7 (5) The sum of the levies assessed for all funds in the sending district shall be equal to or
8 greater than the sum of all levies for all funds in the receiving district.

9 The above calculations do not include students receiving educational services from an
10 out-of-state school district nor the tax levy of any out-of-state school district.

11 Section 2. That § 13-16-3 be amended to read as follows:

12 13-16-3. The general fund of the school district is a fund provided by law to meet all the
13 operational costs of the school district, excluding capital outlay fund and special education fund
14 expenditures pursuant to § 13-13-37, and to redeem all outstanding warrants against the general
15 fund. ~~The tax levy for the general fund shall be limited as provided in §§ 10-12-30 and 10-12-31.~~

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

336I0488

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1067** - 02/13/2003

Introduced by: Representatives LaRue, Bartling, and Frysliie and Senators Bogue and Symens

1 FOR AN ACT ENTITLED, An Act to exempt golf courses from certain liquor license quota
2 restrictions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any municipality or county may issue one on-sale license for each golf course operated
7 within the municipality or county. No such license may be transferred or sold. The licenses issued
8 to golf courses by the municipality or county shall be issued without regard to the population
9 limitations established pursuant to § 35-4-11, 35-4-11.1, or 35-4-11.2.

10 Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 No license may be issued for any golf course holding an on-sale license prior to January 1,
13 2003, unless the existing license is voluntarily terminated. The municipality or county of issuance
14 may refund the original fee paid by the licensee for the preexisting license.



State of South Dakota

SEVENTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2003

490I0359

SENATE ENGROSSED NO. **HB 1081** - 02/12/2003

Introduced by: Representatives Pederson (Gordon) and Hennies and Senators Vitter and McCracken

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to annual elections,
2 conflicts of interest, and special assessments.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 31-12A-15 be amended to read as follows:

5 31-12A-15. In each road district an annual election of officers shall be held on the first
6 Tuesday ~~after the anniversary date of the first election in~~ May at a place in the district as the
7 board of trustees shall designate. The election shall be conducted according to chapter 8-3, at
8 a meeting of the registered voters who reside in the road district.

9 Section 2. That § 31-12A-24 be amended to read as follows:

10 31-12A-24. No trustee or employee of a road district ~~shall~~ may be directly or indirectly
11 interested in any contract, work, or business of the district, or the sale of any article, the expense,
12 price, or cost of which is paid by ~~such~~ the district, nor in the purchase of any real, personal, or
13 other property belonging to the district, or which shall be sold for taxes or assessments, or by
14 virtue of legal process at the suit of ~~said~~ the district. No trustee may be a joint or co-owner of
15 land in the road district with an employee of the same road district.



1 Section 3. That § 31-12A-23 be amended to read as follows:

2 31-12A-23. The board of trustees ~~shall~~ have the power to cause the amount of any charges,
3 and interest and penalties thereon, for road district service rendered or made available to any land
4 within and part of the district, which are due and unpaid on the first day of October in each year
5 to be certified by the clerk of the district to the county auditor in the manner provided in
6 § 10-12-7 together with any taxes levied by the district for corporate purposes, and all amounts
7 so certified shall be inserted by the county auditor upon the tax list of the current year and shall
8 be payable and delinquent at the same time and shall incur penalty and interest and shall be
9 collected by the same procedure as real estate taxes on the same property. In the event of a tax
10 sale or the issuance of a tax deed, the provisions of §§ 9-43-39 to 9-43-41, inclusive, ~~shall~~ apply
11 to all amounts so certified and then delinquent, in the same manner as delinquent installments of
12 special assessments. Five percent of the landowners of the district may petition the board of
13 trustees for referendum of any special assessment. A majority of all the landowners of the road
14 district is required for approval of the special assessment. The referendum shall be governed, to
15 the extent applicable, by chapter 9-20.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

725I0486

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1111 - 02/13/2003

Introduced by: Representatives Michels, Cradduck, Gillespie, Glenski, Konold, McCoy, Peterson (Bill), Sebert, Smidt, Thompson, Van Gerpen, and Wick and Senators Diedrich (Larry), Ham, Jaspers, Kleven, McCracken, Sutton (Dan), and Vitter

1 FOR AN ACT ENTITLED, An Act to authorize construction management services to be
2 employed on public improvement projects.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 For the purposes of this chapter, the term, construction management, means any project
7 delivery system based on an agreement whereby a construction manager provides leadership to
8 the construction process through a series of services to the public corporation.

9 Section 2. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 For the purpose of this chapter, the term, construction management services, means the
12 following:

13 (1) Services provided in the planning and design phases of a public improvement project
14 including the following:



- 1 (a) Consulting with, advising, assisting, and making recommendations to the public
- 2 corporation and architect or engineer on all aspects of planning for project
- 3 construction;
- 4 (b) Reviewing all plans and specifications as they are being developed and making
- 5 recommendations with respect to construction feasibility, availability of
- 6 material and labor, time requirements for procurement and construction, and
- 7 projected costs;
- 8 (c) Making, reviewing, and refining budget estimates based on the public
- 9 corporation's program and other available information;
- 10 (d) Making recommendations to the public corporation and the architect or
- 11 engineer regarding the division of work in the plans and specifications to
- 12 facilitate bidding and awarding of contracts;
- 13 (e) Soliciting the interest of capable contractors and assisting the public
- 14 corporation in taking bids on the project;
- 15 (f) Analyzing the bids received and awarding contracts; and
- 16 (g) Preparing and monitoring a progress schedule during the design phase of the
- 17 project and preparation of a proposed construction schedule; and
- 18 (2) Services provided in the construction phase of the public improvement project
- 19 including the following:
- 20 (a) Maintaining competent supervisory staff to coordinate and provide general
- 21 direction of the work and progress of the contractors on the project;
- 22 (b) Observing the work as it is being performed for general conformance with
- 23 working drawings and specifications;
- 24 (c) Establishing procedures for coordinating among the public corporation,

1 architect or engineer, contractors, and construction manager with respect to
2 all aspects of the project and implementing labor policy in conformance with
3 the requirements of the public corporation's policy and making
4 recommendations;

5 (d) Reviewing and processing all applications for payment by involved contractors
6 and material suppliers in accordance with the terms of the contract;

7 (e) Making recommendations for and processing requests for changes in the work
8 and maintaining records of change orders;

9 (f) Scheduling and conducting job meetings to ensure orderly progress of the
10 work;

11 (g) Developing and monitoring a project progress schedule, coordinating and
12 expediting the work of all contractors, and providing periodic status reports to
13 the owner and the architect and engineer; and

14 (h) Establishing and maintaining a cost control system and conducting meetings to
15 review costs.

16 Section 3. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
17 follows:

18 For the purposes of this chapter, the term, construction manager, means any person or entity
19 providing construction management services for a public corporation, and either a construction
20 manager-agent or construction manager-at-risk.

21 Section 4. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 For the purposes of this chapter, the term, construction manager-agent, means any
24 construction manager that provides construction management services to a public corporation

1 in a fiduciary capacity. No construction manager-agent may contract directly with any contractor
2 or supplier for the project.

3 Section 5. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 For the purposes of this chapter, the term, construction manager-at-risk, means any
6 construction manager that assumes the risk for construction, rehabilitation, alteration, or repair
7 of a public improvement, and provides construction management services to the public
8 corporation. The construction manager-at-risk shall directly contract with subcontractors and
9 suppliers for the project.

10 Section 6. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any public corporation may engage a construction manager if planning, designing, or
13 constructing a public improvement, or if improving, altering, or repairing a public improvement.
14 However, no public corporation is required to engage a construction manager.

15 Section 7. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 Unless the construction manager-agent is an employee of the public corporation and provides
18 the construction management services pursuant to such employment, no public corporation may
19 engage the services of a construction manager except as follows:

20 (1) The public corporation shall first make the following determinations:

21 (a) That it is in the public interest to utilize the services of a construction manager;
22 and

23 (b) That the construction management services would not unreasonably duplicate
24 and would be in addition to the normal scope of separate architect or engineer

1 contracts;

2 (2) Notwithstanding any other provisions of this chapter, no construction manager may
3 contract to perform actual construction on the project, except as follows:

4 (a) The construction manager may perform general conditions of the construction
5 contract as required by the owner;

6 (b) The construction manager is a construction manager-at-risk and was solicited
7 through a qualification-based request for proposals method of procurement as
8 provided in section 8 of this Act and the construction manager-at-risk, for any
9 actual construction contracted by the construction manager-at-risk to be
10 performed on the project, provides payment and performance bonds and
11 competitively bids the work as required by any statute governing bidding and
12 bonding for public improvement projects;

13 (c) Pursuant to a contract awarded on an emergency basis, pursuant to § 5-18-3.1;
14 or

15 (d) Pursuant to a contract negotiated pursuant to § 5-18-9.1 or 5-18-9.2; and

16 (3) No person, firm, or corporation may act as a construction manager-agent and also as
17 a contractor on any public improvement, except as follows:

18 (a) Pursuant to a contract awarded on an emergency basis, pursuant to § 5-18-3.1;
19 or

20 (b) Pursuant to a contract negotiated pursuant to § 5-18-9.1 or 5-18-9.2.

21 Section 8. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Each qualification based request for proposals required by subsection 7(2)(b) of this Act to
24 enter into a construction manager-at-risk services contract where the construction manager-at-

1 risk intends to actually perform construction on the project, shall meet the following criteria:

2 (1) The public corporation shall, prior to issuing any request for proposals to enter in a
3 construction management services contract, establish and publish procedures for the
4 solicitation and award of such contracts, which procedures shall include the following:

5 (a) The procedures and standards to be used to qualify construction managers;

6 (b) The procedures for preparing and submitting proposals;

7 (c) The procedures for evaluating proposals;

8 (d) The procedures for negotiations between the public corporation and those
9 submitting proposals prior to the acceptance of a proposal. The procedures
10 shall contain safeguards to preserve the confidential information and
11 proprietary information supplied by those submitting proposals; and

12 (e) The procedures for awarding construction management services contracts;

13 (2) A request for proposals to enter into a construction management services contract
14 shall contain the following elements:

15 (a) The identity of the public corporation;

16 (b) A description of the proposed public improvement;

17 (c) A description of the qualifications the construction manager will be required
18 to have;

19 (d) The procedures to be followed for submitting proposals, the criteria for
20 evaluation of a proposal and its relative weight, and procedures for making
21 awards;

22 (e) The proposed terms and conditions for the construction management services
23 contract, including a description of the scope of services to be provided;

24 (3) Notice of any request for proposals shall be advertised in accordance with the

1 provisions of § 5-18-3;

2 (4) After obtaining and evaluating proposals, a public corporation may accept the
3 proposal it considers the most advantageous to the public corporation. Acceptance
4 of a proposal shall be by written notice to the construction manager submitting the
5 accepted proposal, and by simultaneously notifying in writing the other construction
6 managers that their proposals were not accepted; and

7 (5) The public corporation shall reserve the right to reject any or all proposals submitted.

8 Section 9. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Each contract for a public improvement shall have a licensed design professional actively
11 involved in the project from the start of design through final completion as required by chapter
12 36-18A.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

725I0485

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1118 - 02/13/2003

Introduced by: Representatives Michels, Cradduck, Gillespie, Glenski, Konold, McCoy, Peterson (Bill), Sebert, Smidt, Thompson, Van Gerpen, and Wick and Senators Diedrich (Larry), Ham, Jaspers, Kleven, McCracken, Sutton (Dan), and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain design-build provisions.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 5-18-1 be amended by adding thereto a NEW SUBDIVISION to read as
4 follows:

5 "Request for qualifications," the document or publication whereby a public corporation
6 solicits interested design-builders to prequalify for a design-build contract.

7 Section 2. That § 5-18-31 be amended to read as follows:

8 5-18-31. Any request for proposals shall contain performance criteria developed by a
9 performance criteria developer and approved by the public corporation. For projects not
10 exempted under chapter ~~36-18~~ 36-18A from using a registered design professional, the
11 performance criteria developer shall be a design professional registered under chapter 36-18A.
12 For projects not exempt under chapter 36-18A from using a registered design professional, the
13 performance criteria developer shall be hired on the basis of qualifications related to projects of
14 similar scope.



Section 3. That § 5-18-35 be amended to read as follows:

5-18-35. ~~A~~ After a minimum of three design-builders have been prequalified in accordance with § 5-18-37, a request for proposals shall be mailed to each prequalified design-builder. The minimum number of prequalified design-builders is not required for any improvement project that is complex in nature, requires close coordination of design and construction expertise, and does not require significant structural changes, additions, reconstruction, or new construction. The request for proposals shall be prepared for each design-build contract containing, at a minimum, the following elements:

- (1) The identity of the public corporation which will award the design-build contract and the identity of the performance criteria developer;
- (2) The procedures to be followed for submitting proposals, the criteria for evaluation of a proposal and its relative weight, and the procedures for making awards;
- (3) The proposed terms and conditions for the design-build contract;
- (4) The performance criteria, which shall include the following:
 - (a) The owners preliminary program of space needs and special requirements;
 - (b) Performance standards for materials and equipment; and
 - (c) Minimum system requirements and efficiencies;
- (5) A description of the drawings, specifications, or other submittals to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications, or submittals that is acceptable;
- (6) A schedule for planned commencement and completion of the design-build contract;
- (7) Budget limits for the design-build contract, ~~if any~~;
- (8) Affirmative action, disadvantaged business, or set-aside goals or requirements for the design-build contract, if any;

(9) ~~The qualifications the design-builder is required to have;~~

~~—(10)—Requirements for performance and payment bonds, and insurance. At a minimum,~~

~~these~~ These requirements shall meet the requirements of § 5-21-1; and

~~(11)~~(10) The compensation, if any, to be given to design-builders submitting proposals

who are not awarded the project;

(11) Whether project financing is in place;

(12) A schedule for payments to the design-builder;

(13) Site identification and geotechnical information if the site is owner-provided;

(14) Location of existing utilities and their capacity if the site is owner-provided; and

(15) Warranty and guarantee requirements.

Section 4. That § 5-18-36 be amended to read as follows:

~~5-18-36. Notice of any request for proposals shall be advertised in accordance with the provisions of § 5-18-3 unless design-builders have been prequalified in accordance with the provisions of § 5-18-37. No request for proposals may include detailed designs or detailed drawings prepared by the criteria developer. The request may, however, include drawings of existing conditions and any preliminary conceptual sketches necessary to illustrate the information required by subdivision 5-18-35(4). Each conceptual drawing shall contain the minimum information necessary to convey the requirements. No request for proposals may include detailed construction specifications. Any design and construction standards in the request for proposals shall be performance standards only.~~

Section 5. That § 5-18-37 be amended to read as follows:

~~5-18-37. A public corporation may shall prequalify design-builders for design-build contracts by advertising requests for letters of interest its request for qualifications in accordance with § 5-18-3. Requests for letters of interest A request for qualifications shall contain, at a minimum,~~

the following elements:

- (1) The identity of the public corporation;
- (2) A description of the proposed public improvement;
- (3) Budget limits for the proposed public improvement;
- (4) The requirements the design-builder will be required to have; and
- (5) The criteria and their relative weight for prequalification.

Section 6. That § 5-18-42 be amended to read as follows:

5-18-42. After obtaining and evaluating proposals according to the criteria and procedures set forth in the request for proposals, a public corporation may accept the proposal it considers most advantageous to the public corporation. Acceptance of a proposal shall be by written notice to the design-builder which submitted the accepted proposal. At the same time notice of acceptance is delivered, the public corporation shall also inform, in writing, the other design-builders that their proposals were not accepted. Unless all proposals are rejected, a detailed breakdown of the evaluation criteria scores for each proposal received shall be made available to the public after signature execution of the design-build contract. The contract for development of performance criteria shall terminate when a contract is awarded to the design-builder.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

580I0382

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1120** - 02/13/2003

Introduced by: Representatives Van Etten, Adelstein, Buckingham, Christensen, Cradduck, Cutler, Glenski, Haverly, Hennies, Kraus, McCaulley, McCoy, McLaughlin, Murschel, Rave, Thompson, Wick, and Williamson and Senators Vitter, Abdallah, Duniphan, Ham, and McCracken

1 FOR AN ACT ENTITLED, An Act to require that counties be reimbursed for housing persons
2 sent to county jail in lieu of the penitentiary.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-6-1.1 be amended to read as follows:

5 22-6-1.1. If a person is convicted of a Class 5 or Class 6 felony, the court may sentence the
6 person so convicted to imprisonment in the county jail of the county where such person was
7 convicted, for a term of not more than one year. The state shall reimburse any county of this
8 state for the expenses the county incurs for housing such person. However, the reimbursement
9 may not exceed fifty dollars per day. Upon receipt of the bill, the state shall make reimbursement
10 within thirty days.

11 Section 2. That § 23A-27-18.1 be amended to read as follows:

12 23A-27-18.1. The conditions of probation imposed pursuant to § 23A-27-12 or 23A-27-13
13 or the conditions of suspension of execution imposed pursuant to § 23A-27-18, may include the
14 requirement that the defendant be imprisoned in the county jail for a specific period not



1 exceeding one hundred eighty days or in the state penitentiary for a specific period not exceeding
2 one hundred eighty days or the sentence which was imposed or which may be imposed by law,
3 whichever is less. The imprisonment may be further restricted to certain days specified by the
4 court as part of such conditions. Any such imprisonment, either in the county jail or state
5 penitentiary, shall be credited toward any incarceration imposed upon any subsequent revocation
6 of a suspended imposition or execution of sentence. During any such imprisonment the defendant
7 shall be subject to all policies, rules, and regulations of the county jail or state penitentiary. The
8 state shall reimburse any county of this state for the expenses the county incurs for housing such
9 person. However, the reimbursement may not exceed fifty dollars per day. Upon receipt of the
10 bill, the state shall make reimbursement within thirty days.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

906I0497

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1157** - 02/13/2003

Introduced by: Representatives Teupel, Adelstein, Hennies, Konold, Madsen, McCoy, Pederson (Gordon), Solum, and Van Etten and Senators Olson (Ed), Duniphan, Ham, McCracken, Schoenbeck, and Vitter

1 FOR AN ACT ENTITLED, An Act to revise the application of the gross receipts tax on visitor
2 related businesses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read
5 as follows:

6 "Restaurant," any establishment where the public is invited to eat, dine, or purchase and carry
7 out prepared food for immediate consumption.

8 Section 2. That § 10-45D-1 be amended by adding thereto a NEW SUBDIVISION to read
9 as follows:

10 "Visitor intensive restaurant," any restaurant except any restaurant that does not derive fifty
11 percent or more of its annual total gross receipts during the months of June, July, August, and
12 September and has less than fifty-one seats based on the inspection records and license issued
13 by the Department of Health. No restaurant or licensed food service that is operated in a grocery
14 store; food market; bowling alley; movie theater; retail bakery; livestock auction; employee



1 commissary and cafeterias; hospital; school food service, stadium, or gym; college food service,
2 stadium, or gym; military, service, or benevolent club; and municipal, county, state, or tribal food
3 service facility is, however, included.

4 Section 3. That chapter 10-45D be amended by adding thereto a NEW SECTION to read
5 as follows:

6 There is hereby imposed a tax of one percent on the gross receipts from the sale of prepared
7 food and nonalcoholic beverages by any visitor intensive restaurant. Any sale of alcoholic
8 beverages, service, or parking by a visitor intensive restaurant is exempt from the tax imposed
9 by this section. The tax imposed by this section on the gross receipts of any visitor-intensive
10 restaurant shall apply to the gross receipts received by such restaurant during the months of May,
11 June, July, August, September, and October.

12 Section 4. That § 10-45D-2 be amended to read as follows:

13 10-45D-2. There is hereby imposed a tax of one percent on the gross receipts from any
14 lodging establishment, campground, motor vehicle rental, visitor attraction, recreational
15 equipment rental, recreational service, spectator event, and visitor-intensive business. The tax
16 imposed by this section on the gross receipts of any visitor-intensive business shall apply to the
17 gross receipts received by such business during the months of May, June, July, August, ~~and~~
18 September, and October. The tax imposed by this section is in addition to any other tax imposed
19 by chapters 10-45 and 10-46. Tangible personal property, services, and admissions are subject
20 to the tax imposed by this section only if subject to tax by chapters 10-45 and 10-46.

21 Section 5. That § 10-45D-3 be amended to read as follows:

22 10-45D-3. The revenue from the tax imposed by § 10-45D-2 shall be deposited in the
23 tourism promotion fund created in § 1-42-31. Fifty percent of the revenue collected from tax
24 imposed by section 3 of this Act on restaurants shall be disbursed by the Department of Tourism

1 to the four officially recognized geographic tourism regions in South Dakota. The four regions
2 are southeast South Dakota tourism region, the glacial lakes and prairies tourism region, the
3 great lakes of South Dakota tourism region, and the Black Hills Badlands and lakes tourism
4 region. The disbursement to each region shall be in proportion to the amount of such tax revenue
5 generated by restaurants within each respective tourism region. The Department of Tourism shall
6 ensure that all disbursements to the regions are used exclusively for regional tourism marketing.
7 The Department of Tourism shall promulgate rules, pursuant to chapter 1-26, to ensure the
8 expenditure of funds are in compliance with this section.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

733I0631

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1187 - 02/12/2003

Introduced by: Representatives Weems, Buckingham, Hennies, Koistinen, Kraus, LaRue, Madsen, Miles, Novstrup, O'Brien, Peterson (Bill), Putnam, Rave, Smidt, Teupel, and Van Etten and Senators Jaspers, Abdallah, Duniphan, Kelly, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to prohibit the use or possession of scanning devices or
2 reencoders with intent to defraud and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Reencoder," an electronic device that places encoded information from the magnetic
6 strip or stripe of a payment card onto the magnetic strip or stripe of a different
7 payment card;

8 (2) "Scanning device," a scanner, reader, or any other electronic device that is used to
9 access, read, scan, obtain, memorize, or store, temporarily or permanently,
10 information encoded on the magnetic strip or stripe of a payment card.

11 Section 2. No person may use a scanning device to access, read, obtain, memorize, or store,
12 temporarily or permanently, information encoded on the magnetic strip or stripe of a payment
13 card with the intent to defraud. A violation of this section is a Class 6 felony.

14 Section 3. No person may use a reencoder to place information encoded on the magnetic



1 strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the
2 permission of the authorized user of the card from which the information is being reencoded and
3 with the intent to defraud. A violation of this section is a Class 6 felony.

4 Section 4. No person may own or possess a scanning device or a reencoder with the intent
5 to use such scanning device or reencoder to defraud. A violation of this section is a Class 1
6 misdemeanor.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

385I0595

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1190** - 02/13/2003

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Pederson (Gordon), Adelstein, Haverly, Hennies, Kraus, McCoy, McLaughlin, and Van Etten and Senators Vitter, Ham, and Napoli

1 FOR AN ACT ENTITLED, An Act to limit the ability of certain municipalities to annex territory
2 in the vicinity of certain airports.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 9-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No other municipality may annex any territory within one and one-quarter miles of any parcel
7 of land operated as a municipal airport by an airport board organizer pursuant to chapter 50-6.
8 However, if the governing body of the airport-operating municipality consents, by resolution,
9 to such a proposed annexation by another municipality, the provisions of this section do not
10 apply to the extent of the waiver provided in the consent resolution of the airport-operating
11 municipality.

12 Section 2. That chapter 9-4 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 If any municipality other than a municipality that operates a municipal airport by an airport



1 board organized pursuant to chapter 50-6 has annexed any territory within one and one-quarter
2 miles of any exterior boundary of such a municipal airport, the governing body of the airport-
3 operating municipality may, by resolution, within three years of the date of such annexation, void
4 all or any portion of such annexation within one and one-quarter miles of the exterior boundary
5 of such municipal airport.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

546I0540

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1195 - 02/13/2003

Introduced by: Representatives Konold, Nesselhuf, Olson (Mel), Pederson (Gordon), Sebert,
and Solum and Senators Sutton (Dan), Kelly, Koetzle, McCracken, and
Schoenbeck

1 FOR AN ACT ENTITLED, An Act to revise the definition of door to door sales.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 37-24-5.2 be amended to read as follows:

4 37-24-5.2. The term, "door to door sale" ~~shall~~ does not include any transaction:

5 (1) Made pursuant to prior negotiations in the course of a visit by the buyer to a retail
6 business establishment having a fixed permanent location where the goods are
7 exhibited or the services are offered for sale on a continuing basis; ~~or~~

8 (2) In which the consumer is accorded the right of rescission by the provisions of the
9 Consumer Credit Protection Act (15 U.S.C. 1635); ~~or~~ as of January 1, 2003;

10 (3) In which the buyer has initiated the contact and the goods or services are needed to
11 meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes
12 the seller with a separate dated and signed personal statement in the buyer's
13 handwriting describing the situation requiring immediate remedy and expressly
14 acknowledging and waiving the right to cancel the sale within three business days; ~~or~~



- 1 (4) Conducted and consummated entirely by mail or telephone, and without any other
2 contact between the buyer and the seller or its representative prior to delivery of the
3 goods or performance of the services; ~~or~~
- 4 (5) In which the buyer has initiated the contact and specifically requested the seller to visit
5 his the buyer's home for the purpose of repairing or performing maintenance upon the
6 buyer's personal property. If in the course of such a visit, the seller sells the buyer the
7 right to receive additional services or goods other than replacement parts necessarily
8 used in performing the maintenance or in making the repairs, the sale of those
9 additional goods or services ~~would~~ does not fall within this exclusion; ~~or~~
- 10 (6) Pertaining to the sale or rental of real property, to the sale of insurance, or to the sale
11 of securities or commodities by a broker-dealer registered with the Division of
12 Securities, Department of Commerce and Regulation; ~~or~~
- 13 (7) Pertaining to the sale, lease, or repair of motor vehicles, metal buildings, farm
14 machinery or implements, or mobile homes, by a dealer having a fixed permanent
15 location and place of business in South Dakota where such goods and services are
16 offered on a continuing basis; or
- 17 (8) Between a seller of business consulting services and a buyer of business consulting
18 services, if the buyer owns, operates, or manages an established business.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

547I0640

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1202** - 02/13/2003

Introduced by: Representatives Adelstein, Buckingham, Hennies, Kraus, McLaughlin, Pederson (Gordon), and Van Etten and Senators McCracken, Duniphan, and Ham

1 FOR AN ACT ENTITLED, An Act to provide for the annexation of certain municipal airports
2 and to regulate certain extraterritorial jurisdiction conflicts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 9-4-1 be amended to read as follows:

5 9-4-1. The governing body of a municipality, upon receipt of a written petition describing
6 the boundaries of any territory contiguous to that municipality sought to be annexed to that
7 municipality, may by resolution include such territory or any part thereof within such municipality
8 if the petition is signed by not less than three-fourths of the registered voters and by the owners
9 of not less than three-fourths of the value of the territory sought to be annexed to the
10 municipality.

11 For purposes of this section, "~~contiguous~~" ~~includes~~ territory is deemed contiguous even
12 though separated from the municipality by reason of intervening ownership of land used as a golf
13 course or any land owned by the State of South Dakota or any subdivisions thereof. Also for
14 purposes of this section, territory is deemed contiguous if the separated parcel is used as an



1 airport, is operated by an airport board organized pursuant to chapter 50-6, and is within ten
2 miles of a municipality of more than fifty thousand population which created the airport board
3 for the purpose of operating the airport as the municipality's principal public airport. If a
4 municipality annexes such a separate parcel which is used as an airport, the municipality may
5 exercise the municipality's extraterritorial jurisdiction pursuant to § 11-6-26 but only within one
6 and one-quarter miles of the separate parcel. If such one and one-quarter mile extraterritorial
7 jurisdiction overlaps the three-mile extraterritorial jurisdiction of any other municipality, the
8 jurisdiction of the former prevails over the jurisdiction of the latter.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

391I0364

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1211** - 02/12/2003

Introduced by: Representatives Bradford, Adelstein, Bartling, Elliott, Engels, Gillespie, Glenski, Hanson, Hennies, Hundstad, Hunhoff, Kroger, Lange, Miles, Nesselhuf, Olson (Mel), Peterson (Jim), Sigdestad, Valandra, and Van Norman and Senators Moore, Abdallah, and Kloucek

1 FOR AN ACT ENTITLED, An Act to allow the housing of prisoners from other jurisdictions
2 on Indian reservations under certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-11-3 be amended to read as follows:

5 24-11-3. If there is no jail or juvenile detention facility in the county, or if the jail or juvenile
6 detention facility in the county is crowded, unsafe, or otherwise insufficient to conform to the
7 requirements of this chapter, every judicial or executive officer of the county who has the power
8 to order, sentence, or deliver any person to the county jail or juvenile detention facility may
9 order, sentence, or deliver such person to the jail or juvenile detention facility of any near or
10 adjoining state, Indian reservation, county, organized township, or municipality, pursuant to a
11 written agreement to house such prisoner. The written agreement shall provide that, upon
12 request, the agency housing the prisoner shall provide for the release of the prisoner to the
13 county from which the prisoner was committed. The county from which the prisoner was
14 committed shall pay to the agency housing the prisoner all expenses of keeping and maintaining



- 1 the prisoner in the jail or juvenile detention facility, including the cost of building depreciation,
- 2 administration, and a reasonable charge for obsolescence of the facility and all other tangible and
- 3 intangible costs.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

806I0608

HOUSE AGRICULTURE AND NATURAL RESOURCES

COMMITTEE ENGROSSED NO. **HB 1215** -

02/13/2003

Introduced by: Representatives Hundstad, Bradford, Elliott, Frost, Novstrup, and Sigdestad
and Senators Dennert, Sutton (Duane), and Vitter

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the records kept by
2 taxidermists and the inspection of taxidermists.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 41-6-33 be amended to read as follows:

5 41-6-33. It is a Class 2 misdemeanor for a person to preserve or mount birds, animals, or fish
6 that ~~do not belong to himself~~ such person does not own without a taxidermist's license or in
7 violation of the conditions of the license or the rules of the Game, Fish and Parks Commission.

8 A taxidermist's license permits the licensee to have in ~~his~~ possession at ~~his~~ the taxidermist's
9 place of business, birds, animals, or fish, lawfully caught, taken, or killed, for the sole purpose
10 of preserving or mounting ~~the same~~ them. Birds, animals, or fish or any part thereof may be
11 transported by anyone having them legally in possession to a licensee for preserving or mounting
12 only and for return by the licensee to the owner thereof.

13 ~~A taxidermist's license must be approved by the~~ The Game, Fish and Parks Commission shall
14 approve each taxidermist's license. The commission shall promulgate rules pursuant to chapter



1 1-26 setting the requirements for a taxidermist's license. Each licensee shall keep a written record
2 of all birds, animals, and fish received by ~~him~~ the licensee. The record shall include the name and
3 address of each specimen's owner, the number and species, and the dates of receipt and delivery
4 of each specimen. ~~The books, offices, or buildings in which records and specimens are kept shall~~
5 ~~at all times~~ record and specimens shall be ~~open~~ made available for inspection by any
6 representative of the Department of Game, Fish and Parks during normal business hours.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

445I0703

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1232** - 02/13/2003

Introduced by: Representatives Madsen, Michels, and Teupel and Senator Apa

1 FOR AN ACT ENTITLED, An Act to permit meeting organizers to deduct from gross receipts
2 certain charges to clients.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-45 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In determining the amount of tax due under this chapter, a meeting planner may deduct from
7 gross receipts amounts which represent charges to clients for tangible personal property or
8 services purchased by the meeting planner on behalf of a client. However, the sale of the
9 property or service to the meeting planner is not a sale for resale if this deduction is taken. This
10 deduction may only be taken if the amount to be deducted represents an expense specifically
11 incurred for a particular client and the amount is itemized and separately billed as a reimbursable
12 expense by the meeting planner.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

592I0732

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1260 - 02/12/2003

Introduced by: Representatives Bartling, Cutler, Deadrick (Thomas), Gillespie, Hennies, and Peterson (Jim) and Senators Nachtigal, Albers, Moore, and Napoli

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the release of
2 satisfied liens and to provide an additional remedy for the unjust failure to do so.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 44-3-8 be amended to read as follows:

5 44-3-8. Whenever any mortgage, pledge, or other lien of any kind has been satisfied either
6 by payment, foreclosure, or other legal means, the holder of such lien ~~must within ten days after~~
7 ~~written demand is made by the owner of the property~~ shall, within thirty days of satisfaction,
8 deliver a sworn satisfaction to the debtor. However, immediately upon satisfaction of a lien or
9 at any time thereafter, if the owner of the property makes written demand on the lienholder, the
10 lienholder shall, within ten days of receipt, execute and deliver to such owner the debtor a
11 sufficient satisfaction, discharge, or release to cancel the same lien or any record thereof. Failure
12 If the lienholder fails either to acknowledge satisfaction and discharge the lien within thirty days
13 of satisfaction or fails to execute and deliver such to the owner of the property a satisfaction;
14 discharge, or release shall entitle within ten days of receipt of a proper written demand, the
15 owner of the property is entitled to recover from the person who ~~should have executed the same~~



- 1 failed to comply with the provisions of this section all damages that he or she may have sustained
- 2 thereby, including ~~his~~ attorney's fees and an additional penalty in the sum of one hundred dollars.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

177I0719

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB 1261** - 02/13/2003

Introduced by: Representatives Dykstra and Gillespie and Senator Albers

1 FOR AN ACT ENTITLED, An Act to restrict public corporations from making purchases from
2 any retailer that fails to collect and remit sales and use taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 5-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No public corporation may purchase any goods or services from any retailer that meets the
7 definition of a retailer or a retailer maintaining a place of business in the state, pursuant to
8 subdivisions 10-46-1(8) and (9), if the retailer or any affiliate of the retailer fails or refuses to
9 collect and remit the sales and use tax on any sale delivered by any means to a location within
10 this state. The Department of Revenue shall provide a list to public corporations of any retailer
11 that fails to collect and remit the sales and use tax. For the purposes of this section, the term,
12 affiliate, is any person who directly or indirectly owns or controls, is owned or controlled by, or
13 is under common ownership or control with, another person. No public corporation is liable for
14 the breach of any duty required of the public corporation by the provisions of this Act if the
15 breach, error, act, or omission is made in good faith. The provisions of this Act do not apply to



1 any emergency purchase made pursuant to § 5-18-3.1, or to any purchase made pursuant to § 5-
2 18-18.1, 5-18-18.2, or 5-18-9.4, or to any contract for the construction of a new building or the
3 remodeling or addition to an existing building or a contract for any other public improvement
4 which involves the expenditure of twenty-five thousand dollars or more made pursuant to § 5-
5 18-3.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

824I0768

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1282** - 02/12/2003

Introduced by: Representatives Peterson (Bill), Madsen, Michels, and Olson (Mel) and
Senators Bogue, Brown, and Moore

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the official records
2 relating to a pardon.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 24-14-11 be amended to read as follows:

5 24-14-11. Any person who has been granted a pardon under the provisions of this chapter
6 shall be released from all disabilities consequent on ~~such~~ the person's conviction. Upon the
7 granting of a pardon under the provisions of this chapter, the Governor shall order that all official
8 records relating to the pardoned person's arrest, indictment or information, trial, and finding of
9 guilt, ~~and receipt of a pardon~~ shall be sealed. ~~The effect of such order is to restore such~~ The
10 pardon restores the person, in the contemplation of the law, to the status the person occupied
11 before arrest, indictment, or information. No person as to whom such order has been entered
12 may be held thereafter under any provision of any law to be guilty of perjury or of giving a false
13 statement by reason of such person's failure to recite or acknowledge such arrest, indictment,
14 information, or trial in response to any inquiry made of such person for any purpose.

15 For the sole purpose of consideration of the sentence of a defendant for subsequent offenses



1 or the determination of whether the defendant is a habitual offender under chapter 22-7 or 32-23,
2 the pardoned offense shall be considered a prior conviction.

3 The court shall forward a nonpublic record of disposition to the Division of Criminal
4 Investigation. The nonpublic record shall be retained solely for use by law enforcement agencies,
5 prosecuting attorneys, and courts in sentencing such person for any subsequent offense and in
6 determining whether or not, in any subsequent proceeding, the person is an habitual offender
7 under chapter 22-7 or 32-23.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0207

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **SB 23** - 02/13/2003

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to grant counties greater authority to prohibit the use of
2 fireworks during periods of extreme fire danger.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-37-19 be amended to read as follows:

5 34-37-19. Any county may, by resolution, regulate or prohibit the use of fireworks, other
6 than fountains, ground spinners, toy novelties, sparklers, and smoke items, outside the
7 boundaries of any municipality in those areas where the fire danger, as determined by use of the
8 rangeland fire index as established by rule promulgated pursuant to chapter 1-26, by the secretary
9 of agriculture ~~or his designee~~, has reached the extreme category in that county ~~for two~~
10 ~~consecutive days~~ during the period from June twentieth ~~through June twenty-seventh~~ to July
11 fifth, inclusive. During such period, the county's action is suspended if the rangeland fire index
12 falls below the very high category and shall again become effective if the rangeland fire index
13 reaches the extreme category.



State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

770I0290

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 29** - 01/31/2003

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct an addition
2 to the Darold "Dud" King Physical Education Center at the South Dakota School of Mines
3 and Technology and to make an appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The South Dakota Board of Regents may contract for the construction,
6 completion, finishing, equipping, and maintaining of an addition to the Darold "Dud" King
7 Physical Education Center at the South Dakota School of Mines and Technology in Rapid City,
8 including utilities, furnishings, architectural and engineering services, asbestos abatement, site
9 preparation, and the construction of sidewalks and driveways and landscaping the grounds of
10 that facility at the estimated cost of five hundred ninety thousand three hundred dollars
11 (\$590,300).

12 Section 2. Funding for the project authorized in section 1 of this Act is to be provided from
13 gifts and grants to the South Dakota School of Mines and Technology for this purpose. The
14 Board of Regents may accept any gifts for the purposes authorized by this Act, and all such
15 moneys so contributed are hereby appropriated to the Board of Regents.



1 Section 3. The design and construction of the facilities approved by this Act shall be under
2 the general supervision of the Bureau of Administration as provided in chapter 5-14.

3 Section 4. The commissioner of the Bureau of Administration and the executive director of
4 the Board of Regents shall approve vouchers and the state auditor shall draw warrants to pay
5 expenditures authorized by this Act.

6 Section 5. No general fund dollars may be used for maintenance and repair of the facility
7 authorized by this Act, nor may the facility be added to any list of projects receiving funding
8 support from the statewide maintenance and repair fund created in § 5-14-30.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

400I0554

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 80** - 01/31/2003

Introduced by: The Committee on Appropriations at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to establish the Richard Hagen-Minerva Harvey memorial
2 scholarship program and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Pursuant to the donation and intent of Minerva I. Harvey, deceased August 25,
5 1999, as expressed by Article 2 of her Last Will and Testament and presented for probate in the
6 State of New Jersey, Gloucester County Surrogate's Court, there is hereby established within the
7 Department of Education and Cultural Affairs the Richard Hagen-Minerva Harvey memorial
8 scholarship program.

9 Section 2. The Richard Hagen-Minerva Harvey memorial scholarship program shall be
10 administered by a five-member board named the Richard Hagen-Minerva Harvey Memorial
11 Scholarship Board which is hereby established. The members shall be appointed by the Governor
12 for a term of five years, except that the initial appointments shall be for periods of one, two,
13 three, four, and five years. The Governor shall appoint one member as the temporary chair of the
14 board. The board shall elect officers at its first meeting. The board shall meet no more than four
15 times a year, not including telephonic conferences, as may be necessary to complete its



responsibilities as prescribed by this Act. No more than three members of the board may be of the same political party. At least two members of the board shall be enrolled members of a tribe located in South Dakota. A majority of the board shall be present either personally or telephonically to constitute a quorum.

Section 3. In order to be eligible for a Richard Hagen-Minerva Harvey memorial scholarship award, a student shall:

- (1) Have graduated from a South Dakota accredited high school;
- (2) Have met high school graduation requirements established by rules promulgated pursuant to chapter 1-26 by the Department of Education and Cultural Affairs;
- (3) Attend a public or nonpublic accredited university, college, or technical institute located in South Dakota;
- (4) Apply for a Richard Hagen-Minerva Harvey memorial scholarship within one year after graduating from high school or within one year of the student's release from active duty with an active component of the armed forces if the release is within five years of the student's graduation from high school; and
- (5) Be an enrolled member of a tribe whose reservation is located in whole or part in South Dakota.

Section 4. Scholarship award payments shall be made to the institution at the beginning of the fall or spring semester on behalf of the eligible student who has received a Richard Hagen-Minerva Harvey memorial scholarship. The amount of the award is as follows:

- (1) Not less than one thousand dollars for the first year of attendance;
- (2) Not less than one thousand dollars for the second year of attendance;
- (3) Not less than one thousand five hundred dollars for the third year of attendance; and
- (4) Not less than two thousand five hundred dollars for the fourth year of attendance.

Section 5. The board may award no more than seven scholarships per year.

Section 6. In order to maintain eligibility, a student who has been awarded a Richard Hagen-Minerva Harvey memorial scholarship shall:

- (1) Maintain a cumulative 2.5 grade point average on a 4.0 grade point scale;
- (2) Be continuously enrolled for the fall and spring semesters in a public or nonpublic accredited university, college, or technical institution; and
- (3) Complete the equivalent of at least fourteen credit hours of instruction per semester.

Section 7. If factors beyond the control of a student who has been awarded a Richard Hagen-Minerva Harvey memorial scholarship prevent the student from meeting the requirements in section 6 of this Act, the board may temporarily waive the requirements of section 6 of this Act as eligibility criteria.

Section 8. The Department of Education and Cultural Affairs shall provide necessary support services to the board created by this Act.

Section 9. There is hereby continuously appropriated to the Department of Education and Cultural Affairs any other fund expenditure authority necessary for the department to accept and expend money the department may receive from any source for the purpose for providing a Richard Hagen-Minerva Harvey memorial scholarship.

Section 10. The secretary of the Department of Education and Cultural Affairs shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act.

Section 11. The Department of Education and Cultural Affairs may promulgate rules pursuant to this Act and chapter 1-26 to accept applications for a Richard Hagen-Minerva Harvey memorial scholarship, establish criteria to award a Richard Hagen-Minerva Harvey memorial scholarship, and to maintain eligibility for a Richard Hagen-Minerva Harvey memorial scholarship.

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

174I0648

SENATE ENGROSSED NO. **SB 162** - 02/06/2003

Introduced by: Senators Symens and Diedrich (Larry) and Representatives Peterson (Jim),
Pederson (Gordon), Putnam, and Rhoden

1 FOR AN ACT ENTITLED, An Act to revise the definition of E85 ethanol blend fuel.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That subdivision (11) of § 10-47B-3 be amended to read as follows:

4 (11) "E85," ~~motor fuel blends containing eighty-five percent or more by volume of ethyl~~
5 ~~alcohol~~ a petroleum product that is a blend of agriculturally derived denatured ethanol
6 and gasoline or natural gasoline that typically contains eighty-five percent ethanol by
7 volume, but at a minimum must contain seventy-five percent ethanol by volume. For
8 the purposes of this chapter, the energy content of E85 is considered to be eighty-two
9 thousand BTUs per gallon. E85 produced for use as a motor fuel shall comply with
10 ASTM specification D 5798-99;

11

